

9/26/51
September 24, 1951
Op. No. 51-253

Mr. Warren L. McCarthy
County Attorney
Maricopa County Courthouse
Phoenix, Arizona

LAW LIBRARY
ARIZONA ATTORNEY GENERAL

ATTENTION: Robert H. Renaud, School Deputy
403 Luhrs Tower, Phoenix, Arizona

Dear Sir:

This is in reply to your letter of September 6, 1951 wherein you ask for an explanation of Chapter 29, Session Laws of 1951, pertaining to teaching of homebound students and the financing of the same. You ask the following question:

"First, if a handicapped child is, as stated in the act, deemed to be unable to attend regular classes for a period of not less than a school year but is able to attend a class regularly, which said class is set up by a school district for such handicapped child and similarly handicapped children, is said child and similar children entitled to the \$100.00, as mentioned in the final section of said act?

Second, if your answer to the first question is in the affirmative, from whom does the additional cost for the education of said child come, that is, is the district which is handling the homebound program liable for the additional expense of educating said child?"

The Legislature, by Part (b) of Section 1 of Chapter 29, supra, has defined "homebound students" as follows:

"For the purpose of this Act, homebound student means an educable common or high school student unable to attend regular classes due to illness, disease, accident or physical handicap, who has been examined by a private practicing physician, other than his own family doctor, and by the county superintendent of public health or the county

physician, and declared by both to be unable to attend regular classes for a period of not less than a school year."

Thus this definition means that a handicapped child must get a certificate from the two doctors mentioned stating that he will not be able to attend regular classes for the school year, but does not preclude him from being taught apparently any other way, that the school district may provide, either in the home or a place especially provided by the school authorities. The last part of Part (a) of Section 1 of Chapter 29, supra, pertaining to determining average daily attendance is as follows:

" * * * For the purpose of determining average daily attendance a physically handicapped child receiving instruction under the home-bound teaching program shall be deemed in full time attendance when he attends classes or receives instruction for a period of not less than four hours per week."

This statute definitely implies that the handicapped child may attend classes, although they could not be regular classes, or receive his instruction of not less than four hours per week any place else. It is therefore our opinion that if a handicapped child secures the doctors' certificates as provided and receives not less than four hours per week instruction, either in special classes or otherwise, excepting regular classes, he is entitled to the \$100.00 as mentioned in Section 2 of Chapter 29, supra.

Answering your second question, the district would receive approximately \$115.00 from the state and county from the regular ADA allotment and then under Chapter 29, supra, would receive \$100.00 from the state. It is reasonable to presume that this \$215.00 would not pay the expense of educating a homebound student and it is reasonable that the district of the child's residence should pay the balance. In an endeavor to work out the method of paying the various sums and considering Sections 54-601, 601a, 602 and 605 in connection with Chapter 29, we believe the following would be a proper manner to handle the finances involved: Taking for example Wilson School district employs a homebound teacher, Tempe school district has a few homebound students who they desire the Wilson district homebound teacher to teach and proper arrangements have been made between the two districts for the teaching. We believe the attendance of the Tempe child should be credited to Tempe for their regular ADA attendance, which would give Tempe the regular State and County allotment; also the \$100.00 per capita per annum, as provided for in Chapter 29, for each homebound student to be paid to Tempe. The Wilson district would then be entitled to receive pay from Tempe for the full amount of the per pupil cost of teaching. Reading the last

Mr. Warren L. McCarthy
Phoenix, Arizona

September 24, 1951
Page 3

part of Section 2 of Chapter 29, supra, we have this:

" * * * Any additional cost resulting from the homebound teaching program and not provided for under the provisions of this section shall be met by each school district having students receiving homebound instruction. Such additional costs shall be apportioned on a per pupil basis as prescribed by the board in its rules and regulations, and will be a charge against the districts involved."

In other words, if the Wilson district had twenty homebound students and it cost them \$6,000.00 to teach them for a year, the district would be entitled to \$300.00 per student and the Tempe district then would be required to pay the Wilson district, in addition to their ADA allotment and their special allotment under Chapter 29, the sum of \$85.00 per student, or a total of \$300.00. We believe this would be the proper construction, because a sentence in the middle of Section 2 of Chapter 29, supra, reads:

" * * * The appropriation shall be computed with reference to the number of homebound students taught during the preceding year as shown by the records of the superintendent of public instruction. * * * "

In order to keep the records straight so that each district would receive their proper ADA and Special allotment the district of the residence of the handicapped child should keep a complete record of its homebound students during the years it has them taught by other districts. Should they decide to teach their own homebound students, they would automatically receive the appropriation of \$100.00 as provided by Chapter 29, supra, and the ADA allocation from the county and state.

It is therefore our opinion that the additional cost for the education of a homebound student must be paid by the district of the child's residence, in the above example all of the per pupil cost from the Tempe district.

Very truly yours,

FRED O. WILSON
Attorney General

CHAS. ROGERS
Assistant Attorney General

CR:ed
cc: Robert H. Renaud